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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,968	07/21/2003	Dexin Luo	02.19US	5341
23487	7590	01/04/2007	EXAMINER	
THE ESTEE LAUDER COS, INC			KENNEDY, SHARON E	
155 PINELAWN ROAD			ART UNIT	PAPER NUMBER
STE 345 S			1615	
MELVILLE, NY 11747				
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/04/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/623,968	LUO ET AL.
	Examiner Sharon E. Kennedy	Art Unit 1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 October 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) 20-21 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/13/04; 10/25/04; 08/29/05.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) Notice of Informal Patent Application
6) Other: ____.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on October 16, 2006 is acknowledged. The traversal is on the ground(s) that the claims are intertwined and not restrictable. This is not found persuasive because the composition is phrased as a composition "for application to the lips" instead of as a lip composition. In other words, the composition as claimed can be almost anything. In contrast, the method of use requires limiting the composition to application of the lips. In view of the different inventions, restriction is required.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krysik, US 5,330,747 in view of Castrogiovanni et al., US 5,505,937. Krysik discloses the PSA including the trialkylorganosilyl end blocked silica dioxide reacted with polydialkylorganosiloxane with the claimed viscosity and molecular weight. See column 2, lines 10+ of Krysik. Krysik discloses the use of the PSA in cosmetics applied to the skin and eyes. Krysik does not disclose the use of the PSA for lipstick, etc. Castrogiovanni is cited to exemplify the large body of prior art disclosing the use of PSA

for use in lipsticks. Accordingly, it would be obvious to one of ordinary skill in the art to use the Krysk PSA type cosmetic in lipstick in view that Castrogiovanni exemplifies that this technology is routine.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on 571/272-8373.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharon E Kennedy
Sharon E. Kennedy
Primary Examiner
Art Unit 1615